THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.799 of 2007

29.3.2007

Between:

Avudoddi Jwala Narasimham, S/o.Nagaiah
And others

… Petitioners

AND

The District Collector, Krishna District at Machilipatnam
And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.799 of 2007

ORDER:

The petitioners, twelve in number, are residents of Kisara village of Kanchakacherla Mandal in Krishna District. They are before this Court seeking a writ of Mandamus declaring the action of the respondents in trying to evict them from their lands in an extent of Acs.2.89 (out of Acs.7.00) in D.No.19 of Kisara village as illegal and arbitrary. A consequential direction is also sought restraining the respondents not to evict the petitioners from their respective house sites.

The short fact of the matter is as follows. The petitioners have been in possession of the land for over forty years from the days of their forefathers, who allegedly purchased the same under sale deeds, constructed houses and living therein, and also raising vegetable and other crops like brinjals, onions and other seedbeds. They allege that on 05.1.2007 the Mandal Revenue Officer, Kanchakacherla Mandal (MRO), third respondent herein, raised objection when the petitioners started tilling the land for raising vegetables. The petitioners also allege that their title deeds have been lost and, therefore, they produced the copies of the same before the MRO, who is bent upon dispossessing them.

At the stage of admission itself, learned Assistant Government Pleader for Revenue (Assignment) has filed a counter affidavit. It is the case of the respondents that the land admeasuring Acs.7.00 in R.S.No.19 of Kisara village is classified as village poramboke (Grama Kantham). The same was always subjected to floods of Munneru and Vira causing damage to residential houses. The petitioners or their ancestors are also residing by raising houses in the Grama Kantham land. Having considered the troubles being faced by them due to

floods, Government acquired the land admeasuring Acs.7.79 in R.S.No.39 of the Village in 1984. Out of the total acquired land, an extent of Acs.0.23 in survey No.39/1 and an extent of Acs.30 in survey No.39/2 is classified as National Highway road/ poramboke, and the land admeasuring Acs.7.26 in survey No.39/2B is classified as Grama Kantham, which is assigned as house sites to large number of persons in lieu of their lands in survey No.19. It is also alleged that all the families including the petitioners were provided house sites in survey No.39/2B and, therefore, they lost their right over the land in survey No.19. All other allegations made in the writ affidavit including that the petitioners are in possession of the property are denied.

A reply affidavit is filed denying the counter averments. The allegation that it is Government poramboke land is also denied reiterating that even if it is treated as Government poramboke land unless and until the land vests in the Government by appropriate notification under Section 58(2) of A.P. Panchayat Raj Act, 1994, the Government cannot claim any right.

The matter is heard on 13.3.2007. Having regard to various proceedings referred to in the counter affidavit, this Court directed the learned Assistant Government Pleader to produce relevant records. He has produced the records pertaining to acquisition of land in 1984 and the records pertaining to allotment of house sites in survey No.39/2B to the families including the petitioners in lieu of their house sites in survey No.19. A perusal of these records would show that petitioners 5, 8, 9, 10, 11 and 12 were also allotted hose sites. The entire adangal for Fasli 1414 (2004) produced before this Court, would show that survey No.19 is classified as Government poramboke land and it is in occupation of six persons, but none of the petitioners is recorded as an occupant. A perusal of the records would show that the petitioners failed to prove their case that they are owners of land in survey No.19. As the petitioners seriously dispute that survey No.19 is Grama Kantham land, their only remedy is to seek appropriate declaration before the Civil Court. In this writ petition no relief can be granted at this stage.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

March 29, 2007.
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